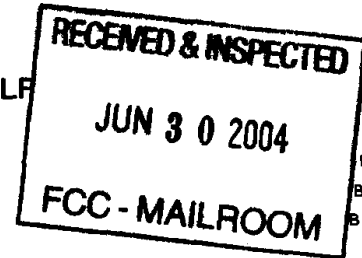# EX PARTE OR LATE FILED

WEIL, GOTSHAL & MANGES LLP

1501 K STREET. NW
SUITE 100
WASHINGTON. DC 20005
(202) 682-7000
FAX: (202) 857-0939

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SILICON VALLEY
SINGAPORE
WARSAW

BRUCE H. TURNBULL
DIRECT LINE (202) 682-7070
E-MAIL: bruce.turnbull@weil.com

June 24, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Docket 04-68, Ex Parte Submission**

Dear Ms. Dortch:

On behalf of our client, Victor Company of Japan, Ltd. ("JVC"), this letter and the attachment accompanying this letter supplement the certification filing made by JVC on March 1, 2004 and subsequent filings made by JVC in this docket.

The purpose of this filing is to inform the Federal Communications Commission ("Commission" or "FCC") that JVC is modifying the D-VHS Copy Protection Requirements[1] to clarify how D-VHS products may handle content received through an input protected by Digital Transmission Content Protection ("DTCP") technology where such content is marked as "Encryption Plus Non-Assertion" ("EPN"). The clarification is intended to assure that all D-VHS recording products are permitted to make the multi-generational copies of such content that are permitted under the DTCP rules, including where such content originated as Unscreened Content or Marked Content subject to the Commission's broadcast flag rules.

In the absence of the change now being made by JVC, there was a question as to whether a D-VHS product that relied on the Encryption Mode Indicator ("EMI") information, rather than the embedded Content Control Information ("CCI") and related EPN settings, could make and play back a copy of EPN encoded content in a manner that would permit copying of the copy made by the D-VHS recorder.[2] The change now being made would permit a D-VHS

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[1] Appendix B to JVC's March 1, 2004 certification submission.

[2] It has always been permitted for a D-VHS recorder to read and respond to the DTCP embedded CCI and EPN indicator in making copies of content received through DTCP protected inputs. Due to design, manufacturing, and/or product performance considerations, however, it is expected that many D-VHS recorders will use the EMI settings in determining whether to make copies of DTCP delivered content. The clarification described in this letter and the attached
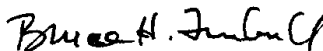
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recorder to rely on the EMI setting in determining whether to make a copy of content delivered through a DTCP protected input, to mark the copy made by the D-VHS with the D-VHS CCI setting of "No-more-copies", but to read the embedded CCI and EPN indicator from their DTCP settings to determine what EMI setting to use in sending content to a DTCP output when playing back a copy made on a D-VHS recorder. Where the D-VHS product finds that the embedded CCI and EPN indicator show that the recorded content is EPN content, then the D-VHS playback process would permit the setting of EMI on the output DTCP interface to "copy one generation," thereby permitting the next D-VHS recorder to make another copy of the content. This process could, of course, occur in a continuing fashion to permit consumers to make as unlimited generations of D-VHS recorded copies of EPN content.

While JVC believes that the Commission can, and should, approve content protection technologies for use with Unscreened Content or Marked Content even where such technologies do not enable unlimited generations of copying (or, indeed, any copying at all), JVC is pleased that this change will afford consumers using D-VHS recorders the capability to make as many additional copies as they wish of broadcast flag regulated content.

Because this clarification relates to content received through DTCP protected inputs, JVC has consulted with the Digital Transmission License Administrator, LLC, and has been assured by DTLA representatives that these changes are consistent with both the DTLA's rules and the DTLA's existing approval of D-VHS as an authorized secure recording technology.

If there are any questions concerning this submission or other matters related to JVC's certification submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

Bruce H. Turnbull

cc: Rick Chessen
       Susan Mort

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revision to the D-VHS CPR is intended to ensure that manufacturers of D-VHS recorders that rely on EMI for recording purposes can facilitate multi-generation copying of EPN content.

D-VHS COPY PROTECTION REQUIREMENTS
Appendix B to JVC Certification of D-VHS Technology
as an Authorized Recording Method under the Broadcast Flag Regulations

Amendment to Section 6

JVC is amending Section 6 of this document as follows:

1. <u>Existing</u> Section 6:

6. EPN Implementation
Notwithstanding any contrary provisions in Section 3, above, D-VHS recorders may detect and respond to Encryption Plus Non-Assertion ("EPN") if and when DTLA adopts such a technology and promulgates Compliance Rules for its use.

2. <u>New</u> Section 6:

6. EPN Implementation
Notwithstanding any contrary provisions in Section 3, above, D-VHS recorders may detect and respond to Encryption Plus Non-Assertion ("EPN") if and when DTLA adopts such a technology and promulgates Compliance Rules for its use.

Specifically, D-VHS recorders may record EPN content and transmit recorded EPN content in accordance with the following rules:

(a) A D-VHS VCR may record input content received via a DTCP protected interface where such content is marked as "EMI=Mode C, Embedded CCI=00, EPN=0" with the Recorded CCI set to "No-more-copies"

(b) A D-VHS VCR that transmits recorded content that is marked as "Recorded CCI=No-more-copies, Embedded CCI=00, EPN=0" via a DTCP protected interface may set the EMI to Mode B (Copy-one-generation).

Note: The "Recorded CCI" state of "No-more-copies" in the above two paragraphs (a) and (b) is equivalent to CGMS information in the Format information area set to "No copies allowed" or "Copy restricted."